



AP 2/14/06

Case 6976

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : February 14, 2006  
Robert BARNHILL et al. : Group Art Unit: 3625  
Serial No.: 09/609,336 : Confirmation No. 1994  
Filed: June 30, 2000 : Examiner: Garth, Matthew S.  
For: ONLINE PRODUCT :  
ORDERING SYSTEM :

SUBSTITUTE APPEAL BRIEF

Honorable Commissioner of Patents  
and Trademarks  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

On April 30, 2004, Appellants appealed from the final rejection of claims 1-22 in the above-identified application. The following is Appellants' Appeal Brief as required by 37 CFR 1.192(a).

On November 1, 2004, appellants filed an Appeal Brief.

On December 20, 2004, the Examiner mailed a communication, objecting to the appendix of claims that included an amendment filed on February 2, 2004, but not entered.

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Pursuant to the communication of December 20, 2004, appellants submitted on January 3, 2005 three (3) copies of a revised Brief, with an appendix of claims that do not include the above-mentioned amendment. Arguments pertaining to the amendment were also removed.

On January 5, 2006, the Board of Patent Appeals and Interferences mailed to appellants an Order Returning Undocketed Appeal to Examiner to require appellants to file a substitute Appeal Brief in compliance with 37 CFR 41.37.

On January 31, 2006, the examiner mailed a Notification of Non-Compliant Appeal Brief, giving appellants one month or 30 days from the mailing of the communication, whichever is longer, to file a substitute brief in compliance with 37 CFR 41.37.

Pursuant to the Notification of January 31, 2006, appellants hereby submit three (3) copies of a Substitute Appeal Brief in accordance with 37 CFR 41.37.

It is believed that no fee is due; however, should that be incorrect, please charge Deposit Account No. 19-2105 for any required fees and inform the undersigned.

**Real Party in Interest**

The application had been assigned to TESSCO Communications Incorporated in an assignment document recorded on March 5, 2001, at Reel/Frame 011559/0146.

**Related Appeals and Interferences**

There are no related appeals and interferences.

**Status of claims**

Claims 1-22 shown at the appendix are pending and are the subject of this appeal.

**Status of Amendments**

An amendment pertaining to claims 1, 15 and 20 was filed on February 2, 2004, but was not entered. The claims in the appendix do not include the amendment.

**Summary of Claimed Subject Matter**

The present invention in accordance with claim 1 is directed to a method for ordering products online, comprising:

a) providing a server system for connection to a client system, the server system including product and order databases (see, for example, Fig. 32 and pgs. 21-24);

b) allowing the client system to be connected to the server system (see, for example, Fig. 1 and pg. 9, lines 1-11);

c) prior to a customer ordering products, displaying on the client system a worksheet having rows and columns, two of the columns comprising empty fields (see, for example, Fig. 1, and pg. 9, lines 12-20);

d) allowing the customer operating the client system to build the worksheet with products desired to be ordered by filling in the empty fields with the product stock number included in the product database and corresponding quantities (see, for example, Fig. 2, and pg. 9, lines 21-26 to pg. 10, lines 1-15); and

e) allowing the customer to submit the worksheet to the server system to obtain a quote as to product price and availability or direct delivery by ordering the products listed thereon (see, for example, Fig. 6 and pg. 10, lines 16-20).

The present invention in accordance with claim 15 is a client server system for ordering products online, comprising:

a) a client server system including a database for products (see, for example, Fig. 32 and pg. 23, lines 15-19);

b). said system including means for displaying a worksheet on a client system (see, for example, Figs. 1 and 32 and spec. pg. 9, lines 14-20 and pg. 23, lines 5-14);

c) said worksheet including empty fields for entry by the customer of stock numbers and corresponding quantities of the products to be ordered (see, for example, Fig. 16 and pg. 9, lines 14-20);

d) means for searching for a product from said database and adding the product to the worksheet (see, for example, Fig. 3 and pg. 11, lines 15-26 and pg. 12, lines 1-6); and

e) means for submitting the filled-in worksheet to order the products listed thereon (see, for example, Fig. 6 and pg. 14, lines 15-18).

The present invention in accordance with claim 20 is a website for ordering products online, comprising:

a) a server system for connecting to a client system through the Internet, said server system including a product database (see, for example, Fig. 32 and pgs. 21-24);

b) said server system including software for displaying a worksheet on a monitor of the client system (see, for example, Fig. 1, and pg. 9 lines 12-20);

c) said worksheet including rows and columns (see, for example, Fig. 16 and pg. 9, lines 14-20);

d) said worksheet including empty fields for entry of stock numbers and corresponding quantities of the products to be ordered, said empty fields being adapted to be filled by the customer operating the client system (see, for example, Fig. 16 and pg. 9, lines 14-20); and

e) said software including means for searching the product database for products to be added to said worksheet (see, for example, Fig. 3 and pg. 11, lines 151-26 through pg. 12, lines 1-6).

The present invention in accordance with claim 22 is a monitor display in a client system for ordering products online, comprising:

a) worksheet including rows and columns (see, for example, Fig. 16 and pg. 9, lines 14-20); and

b) said worksheet including empty fields for entry of stock numbers and corresponding quantities of the products to be ordered (see, for example, Fig. 16 and pg. 9, lines 14-20).

#### **Grounds of Rejection to be Reviewed on Appeal**

Whether claims 1-22 are anticipated by Kenney, U.S. Patent No. 6,026,376 under 35 U.S.C. 102(e).

For the ground of rejection which applies to the group of claims cited above, the claims of the group do not stand or fall

together, except as otherwise indicated below in the argument section, and are believed to be separately patentable.

### Argument

#### 1. Claims 1, 5, 6

Appellants assert that claim 1 is patentable over the cited reference.

The Examiner states that claim 1 is anticipated by the reference because, among other things, the reference shows "displaying on the client system a worksheet having rows and columns, two of said columns comprising empty field." The Examiner refers to Fig. 9 as showing this feature.

Appellants respectfully disagree. Fig. 9 of Kenney shows items 42, 44 and 46 that appear to be a worksheet with empty fields. However, a fair reading of the disclosure shows that items 42, 44 and 46 are not worksheets, let alone ones with empty fields. Items 42, 44 and 46 are lists of items that the shopper has ordered by clicking on the items displayed in the virtual store. Item 42 is an alphabetical list of the items ordered, 44 is a listing of the same items by store location and 46 is yet another listing of the same items by warehouse location. See col. 10, lines 45-55. A list by definition is "a simple series of words or numerals (as the names of persons or objects)". Merriam-Webster Dictionary 1996.

On the other hand, appellants' worksheet is a clean "sheet" with rows and columns, two columns of which include blank fields, waiting to be filled in by the user. Appellants' worksheet eventually becomes a list after the empty fields are filled in with items he wishes to order.

Accordingly, Kenney does not disclose a worksheet that the shopper can interact with directly by filling in blank fields with items he wishes to buy. The list 42, 44 or 46 is generated only after the shopper clicks on the items displayed in the virtual store. See, for example, col. 10, lines 10-12.

The Examiner also states that Kenney shows the step of allowing the customer to build the worksheet by filling in the product stock number and corresponding quantities. The Examiner refers to Figs. 10A and 10B that allegedly show this step.

Appellants disagree that this step is shown. There are three ways a shopper can make his purchase; namely, "go shopping," "make list" or "product locator." See Figs. 3 and 10A. When a shopper selects "go shopping," a list is generated when he starts clicking on the products shown in the virtual aisle. No worksheet with two columns with blank fields is presented to the shopper to be filled in. Since there is no worksheet with empty fields, there can be no disclosure of the step of allowing the customer to build the worksheet by filling in the empty fields with the product stock number and quantities.



When the shopper selects "make list," one or more list forms is displayed, which can be of the same type shown in Figs. 5 and 9. In Fig. 5, the items 26, 28 and 30 are lists that do not disclose a worksheet with two columns with empty fields. Col. 11, lines 8-12. Item 26 is an index of the items in the store, item 28 is a list of items on "special" and item 30 is a list of items be ordered. Col. 9, lines 19-25. The lists in Fig. 9 were discussed above and clearly do not disclose a worksheet with two columns with empty fields.

In "make current list," the shopper selects from any reorder items from an existing reorder list 30, enters new items or "goes shopping." Entering new items means selecting from the lists 26 presented to the shopper when he selects "make list." Col. 11, lines 8-12. Selecting an item for purchase means "entering data through the product information window 40 as shown in Fig. 9 (i.e., by selecting "yes" after "purchase") or by single or double clicking on the product or the "hot spot." Col. 10, lines 46-50.

In "make reorder list," the shopper enters an item to be reordered. As discussed above, entering an item means the same as when the shopper "go shopping" or "make current list," as discussed above. In making the list, there is no disclosure that the shopper enters the information on a blank field in a displayed worksheet. To the contrary, the lists are generated only when products are

selected, not before. Col. 10, lines 10-12 and col. 12, lines 66-67.

In the "product locator," product selection is done through the same steps or procedures disclosed as in "make current list" or "make reorder list." There is no disclosure that a worksheet with two columns of empty fields for entering product stock numbers and quantities is presented to the shopper for filling in. Instead the list is generated by the computer from the product selection.

In view of the above, it asserted that claim 1 is not anticipated by the cited reference. "Anticipation of a claim under 35 USC 102 can be found only if the prior art reference discloses every element of the claim, and anticipation is a fact question subject to review under the clearly erroneous standard." Ex parte Luck (BPAI) 28 USPQ2d 1875(1993), citing, Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 1457, 221 USPQ 481, 485 (Fed. Cir. 1984); In re King, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986).

## **2. Claim 2**

Appellants assert that claim 2 is patentable over the cited reference. The arguments put forth above for the patentability of claim 1 is incorporated herein by reference.

Kenney does not disclose the shopper keying in stock numbers.

Product selection is done through clicking on the displayed product, answering a selection query or entering "yes" after "purchase" as in Fig. 9.

The Examiner refers to col. 10, lines 45-63, which discloses "entering data through the product information window 40." Window 40 does not display stock number information. Additionally, there is no disclosure that data from the window 40 is keyed in in a worksheet.

In view of the above, it is asserted that claim 2 is not anticipated by the cited reference.

### **3. Claim 3**

Appellants assert that claim 3 is patentable over the cited reference. The arguments put forth above for the patentability of claim 1 is incorporated herein by reference.

There is no disclosure that Kenney shows a worksheet built by searching the product database by category and adding the product to the worksheet. The Examiner refers to col. 4, lines 1-19, which discloses that "unique items such as flowers or vegetables could be ordered by category, number, and total cost or amount required (if applicable). This does not say that the database is searched by category and adding the product found to the worksheet.

In view of the above, it is asserted that claim 3 is not anticipated by Kenney.

**4. Claim 4**

Appellants assert that claim 4 is patentable over the cited reference. The arguments put forth above for the patentability of claim 1 is incorporated herein by reference.

The Examiner refers to col. 4, lines 1-19. A review of this citation did not disclose the step of searching the product database by manufacturer part number and adding the product found to the worksheet.

In view of the above, it is asserted that claim 4 is not anticipated by Kenney.

**5. Claims 7 and 8**

Appellants assert that claims 7 and 8 are patentable over the cited reference. The arguments put forth above for the patentability of claim 1 is incorporated herein by reference.

The Examiner refers to col. 11, lines 8-20. A review of this citation did not disclose the step of cloning another worksheet. The citation shows "install[ing] a reorder list," which means, in the context of the disclosure, generating a reorder list as described in col. 11, lines 21-28. Further, the citation did not disclose the step of cloning a product order.

In view of the above, it is asserted that claims 7 and 8 are not anticipated by the reference.

**6. Claims 9-11**

Appellants assert that claims 9-11 are patentable over the cited reference. The arguments put forth above for the patentability of claim 1 are incorporated herein by reference.

The Examiner refers to col. 11, lines 8-20. A review of this citation did not disclose the step of importing a template, importing a line item from a previous product order, or importing a line item from a template.

In view of the above, it is asserted that claims 9-11 are not anticipated by the reference.

**7. Claim 12-13**

Appellants assert that claims 12-13 are patentable over the cited reference. The arguments put forth above for the patentability of claim 1 are incorporated herein by reference.

The Examiner refers to col. 11, lines 8-34. A review of this citation did not disclose the step of loading a template into the worksheet.

In view of the above, it is asserted that claims 12-13 are not anticipated by the reference.

**8. Claim 14**

Appellants assert that claim 14 is patentable over the cited reference. The arguments put forth above for the patentability of claim 1 are incorporated herein by reference.

The Examiner refers to col. 11, lines 8-34. A review of this citation did not disclose the step of reserving the quote for a predetermined period of time.

In view of the above, it is asserted that claim 14 is not anticipated by the cited reference.

**9. Claims 15-20**

Appellants assert that claims 15-20 are not anticipated by Kenney. The arguments put forth above for the patentability of claim 1 is incorporated herein by reference.

The examiner states that claims 15 and 20 are "rejected under the same rational as set forth above in claim 1."

As discussed above in arguing for the patentability of claim 1, appellants assert that Kenney does not disclose means for displaying a worksheet including empty fields for entry by the customer of stock numbers and corresponding quantities of the products to be ordered. Kenney discloses lists, but not a worksheet with empty fields for filling in by the shopper. The lists of Kenney are generated when products are selected. If the shopper did not select any product prior to or during his visit to the store, a list of products to be purchased will not be generated.

In view of the above, it is asserted that claims 15-20 are not anticipated by the cited reference.

#### **10. Claim 21**

Appellants assert that claim 21 is not anticipated by Kenney. The arguments put forth above for the patentability of claim 1 is incorporated herein by reference.

Kenney does not disclose a software with a presentation layer, a business layer communicating with the presentation layer and a data layer communicating with the business layer.

In view of the above, it is asserted that claim 21 is not anticipated by the cited reference.

**11. Claim 22**

Appellants assert that claim 22 is patentable over the cited reference. Kenney does not disclose a monitor display in a client system for ordering products online wherein the monitor display shows a worksheet with rows and columns and empty fields for entry of stock numbers and corresponding quantities of the products to be ordered.

In view of the above, it is asserted that claim 22 is not anticipated by the reference.



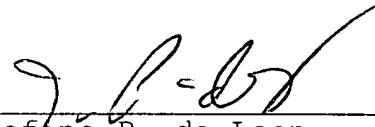
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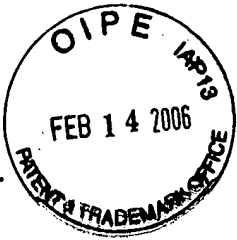
**SUMMARY**

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 1-22 is erroneous, and reversal of the decision is respectfully requested.

Respectfully submitted,

  
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CLAIMS APPENDIX

1. A method for ordering products online, comprising:
  - a) providing a server system for connection to a client system, said server system including product and order databases;
  - b) allowing the client system to be connected to the server system;
  - c) displaying on the client system a worksheet having rows and columns, two of said columns comprising empty fields;
  - d) allowing the customer operating the client system to build the worksheet with products desired to be ordered by filling in the empty fields with the product stock number included in the product database and corresponding quantities; and
  - e) allowing the customer to submit the worksheet to the server system to obtain a quote as to product price and availability or direct delivery by ordering the products listed thereon.
2. A method as in claim 1, wherein the worksheet is built by keying in stock numbers for the products included in the product database.
3. A method as in claim 1, wherein the worksheet is built by searching the product database by category and adding the product found to the worksheet.

4. A method as in claim 1, wherein the worksheet is built by searching the product database by manufacturer part number and adding the product found to the worksheet.

5. A method as in claim 1, wherein the worksheet is built by searching the product database by keyword and adding the product found to the worksheet.

6. A method as in claim 1, wherein the worksheet is built by cloning product stock numbers from another worksheet.

7. A method as in claim 1, wherein the worksheet is built by cloning another worksheet.

8. A method as in claim 1, wherein the worksheet is built by cloning a product order.

9. A method as in claim 1, wherein the worksheet is built by importing a template.

10. A method as in claim 1, wherein the worksheet is built by importing a line item from a previous product order.

11. A method as in claim 1, wherein the worksheet is built by importing a line item from a template.

12. A method as in claim 1, wherein the worksheet is built by loading a template into the worksheet and editing each line item as desired.

13. A method as in claim 1, wherein the worksheet is built by loading a template into the worksheet.

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14. A method as in claim 1, and further comprising reserving the quote for a predetermined period of time.

15. A client server system for ordering products online, comprising:

a) a client server system including a database for products;

b) said system including means for displaying a worksheet on a client system;

c) said worksheet including empty fields for entry by the customer of stock numbers and corresponding quantities of the products to be ordered;

d) means for searching for a product from said database and adding the product to the worksheet; and

e) means for submitting the filled-in worksheet to order the products listed thereon.

16. A client server system as in claim 15, and further including means for saving said filled-in worksheet for later retrieval.

17. A client server system as in claim 15, and further comprising means for cloning said filled-in worksheet.

18. A client server system as in claim 15, and further including means for saving said filled-in worksheet as a template.

19. A client server system as in claim 18, and further comprising means for importing product information from an existing template to said worksheet.

20. A website for ordering products online, comprising:

a) a server system for connecting to a client system through the Internet, said server system including a product database;

b) said server system including software for displaying a worksheet on a monitor of the client system;

c) said worksheet including rows and columns;

d) said worksheet including empty fields for entry of stock numbers and corresponding quantities of the products to be ordered, said empty fields being adapted to be filled by the customer operating the client system; and

e) said software including means for searching the product database for products to be added to said worksheet.

21. A website as in claim 20, wherein:

a) said software includes a presentation layer;

b) a business layer communicating with said presentation layer; and

c) a data layer communicating with said business layer.

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22. A monitor display in a client system for ordering products online, comprising:

- a) worksheet including rows and columns; and
- b) said worksheet including empty fields for entry of stock numbers and corresponding quantities of the products to be ordered.

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**EVIDENCE APPENDIX**

**NONE**

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**RELATED PROCEEDINGS APPENDIX**

**NONE**